IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

No. 297

IMMIGRATION AND NATURALIZATION SERVICE,

Petitioner,

—v.—

VELJKO STANISIC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF THE AMERICAN CIVIL LIBERTIES UNION, *AMICUS CURIAE*

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Interest of *Amicus Curiae*

The American Civil Liberties Union's concern in this case is the Government's denial to alien seamen of statutory procedural safeguards which Congress has provided in deportation proceedings for aliens generally. Deportation is patently a drastic administrative remedy and every alien should be given the benefit of all of the statutory procedural safeguards in the absence of a clear legislative exception excluding seamen from these benefits.

Opinion Below

The opinion of the Court of Appeals is reported at 393 F. 2d 539.

Jurisdiction

The judgment of the Court of Appeals was entered on April 17, 1968. The jurisdiction of the Court is invoked under 28 U. S. C. 1254(1).

Question Presented

Whether Section 252(b) of the Immigration and Nationality Act provides an exception to the ordinary deportation procedure required by Sections 242 and 243 of the Act and authorizes summary deportation after the foreign vessel on which the alien seaman arrived has departed from the United States.

Statute Involved

The applicable provisions of the Immigration and Nationality Act are set forth in the Appendix to the Government's brief.

Statement

On December 23, 1964, the respondent, a citizen of Yugoslavia, arrived at Coos Bay, Oregon, as a member of the crew of a Yugoslav merchant vessel and was admitted into the United States as a crewman. On January 6, 1965 he advised an officer of the Immigration and Naturalization

Service at Portland, Oregon, that he feared political persecution if he returned to Yugoslavia and thereupon his landing permit was revoked and he was detained for deportation on his vessel. On January 7, 1965 respondent was offered an opportunity to seek a temporary parole into the United States by the District Director because of fear of persecution pursuant to the regulations (8 C. F. R. 253.1(e)) but on advice of counsel he refused on the ground, presented here, that he was entitled to have his claim of persecution considered in a statutory deportation proceeding by a Special Inquiry Officer (an independent quasi-judicial administrative officer) pursuant to Sections 242 and 243 of the Act. The District Director denied respondent the request and ordered that he be returned to his vessel for detention and deportation pursuant to Section 252(b) of the Act (A. 5-6). On the same day respondent filed suit in the District Court to restrain the Service from removing him from Portland without an opportunity to be heard on his claim (A. 4).

After January 6th respondent's vessel proceeded coastwise from Coos Bay, Oregon, to Los Angeles, California, from which it was scheduled to sail for Italy on or about January 16th, 1965 (Gov. Br. 5).

On January 18, 1965 the District Court denied respondent's claim but stayed any contemplated exclusion order pending an evidentiary hearing on the issue of persecution before the District Director's Deputy pursuant to the regulations (A. 28). On January 25th the District Director denied the application for parole because of fear of political persecution (A. 10-22). On January 27th respondent filed a second amended and supplemental complaint seek-

ing reversal of the District Director's decision and order of January 25th (A. 23-25).

On June 22nd respondent filed a petition for parole on account of anticipated religious and political persecution and requested a hearing before a Special Inquiry Officer (A. 35-36). On June 23rd the District Director denied the petition without a hearing on the ground that the issue of persecution had been decided and that the respondent was not entitled to a hearing before a Special Inquiry Officer (A. 36-38). On June 23rd respondent filed a complaint in a second action in the District Court alleging that he was entitled to a hearing before a Special Inquiry Officer (A. 38-42). On June 24th the District Court entered judgment against respondent (A. 44-45). On April 17, 1968 the Court of Appeals reversed on the ground that the District Director's order of June 23, 1966, after respondent's vessel had departed from the United States, was not authorized by Section 252(b) and that respondent is entitled to a hearing before a Special Inquiry Officer under Section 242(b).

Summary of Argument

The respondent was not merely paroled into the United States but was admitted and therefore he may not be excluded upon revocation of parole but must be removed by a deportation proceeding either in plenary form under Section 242, as he contends, or in a summary form under Section 252(b) as the Government contends.

The ordinary meaning of the language in Section 252(b) is that "such crewman" subject to summary deportation is one detained on board his vessel and "so deported" on his vessel. The predecessor provisions of the 1917 and

1924 Acts also contemplate plenary deportation proceedings unless the crewman is deported on the vessel on which he arrived.

In the absence of provision for a hearing in the regulations or administrative practice the courts invariably ordered evidentiary hearings even in cases relied on by the Government in which summary deportation after such a hearing has been upheld. But the proper procedure under the correct construction of the statute is to limit summary deportation to the arrival vessel and after its departure to grant plenary deportation hearings in all cases.

In the recently adopted Protocol and Convention Relating to the Status of Refugees the Government of the United States undertakes the express treaty obligation that expulsion of a refugee (which respondent claims to be) shall be only pursuant to due process of law after an opportunity to submit evidence and representation by counsel. Section 252(b) should be restrictively construed as respondent contends in order to comply with this international obligation.

ARGUMENT

The statute requires a full deportation hearing pursuant to Section 242.

Under the statutory scheme an alien, including an alien crewman, may be merely paroled into the United States temporarily so that upon termination of parole the case may be "dealt with in the same manner as that of any other applicant for admission" [Section 212(d)(5)], and he may be excluded without a deportation proceeding. But it is significant in this case that the statute, and perforce

the administrative practice, also contemplate that the alien crewman may be *admitted*, and not merely paroled, into the United States temporarily as provided in Sections 212(d)(3), 252 and 253 and requiring deportation proceedings for removal. The regulations recognize the distinction in that 8 C. F. R. Part 252 refers to "Landing [Admission] of Alien Crewmen" and Part 253 refers to "Parole of Alien Crewmen". This distinction remains between aliens who have not been admitted and may be excluded, and aliens who have been admitted and may be expelled only by a statutory deportation proceeding. *Leng May Ma* v. *Barber*, 357 U. S. 185; *Wong Hing Fun* v. *Esperdy*, 335 F. 2d 656, cert. den. 379 U. S. 970; cf. *U. S. ex rel. Paktorovics* v. *Esperdy*, 260 F. 2d 610 (2nd Cir. 1958).

The respondent crewman was admitted into the United States and, therefore, he is entitled to a statutory deportation proceeding to accomplish his expulsion either by summary deportation contemplated by Section 252(b) on the vessel on which he arrived or by a full deportation proceeding under Section 242. The Government contends that commencement of the summary proceeding before the ship sails is sufficient to satisfy the statute. The court below has held, correctly we submit, that after the ship has sailed a full deportation hearing before a special inquiry officer is required.

The distinction between the summary procedure and the full procedure is not merely formal but is substantial particularly where as here the issue is not whether the seaman has overstayed the period for which he was temporarily admitted but is the disputed factual question whether the crewman would be subject to political persecution if returned to Yugoslavia. Under the summary deportation

procedure the alien crewman receives a decision from the district director who is the principal immigration officer in a particular geographical district charged with enforcement of the immigration laws and officially concerned with execution of the policy of the Immigration and Naturalization Service that alien seamen admitted at ports within his district be required to leave with their vessels. It is understandable that this policy will be very much in the district director's mind in determining whether an alien crewman's claim of political persecution is sustained on evidence which in the nature of things can never be conclusive. In a full deportation hearing under Section 242, however, the alien crewman obtains a determination of this factual issue by a special inquiry officer who is not officially concerned with enforcement of Service policy in respect of crewmen but only with a quasi-judicial determination of the issues presented by the evidence on the record in the hearing before him including the evidence on the issue of political persecution. The Court and Congress have recognized the important role of the special inquiry officer in deportation proceedings. *Sung* v. *McGrath*, 339 U. S. 33; Section 242(b).

It is submitted that the language of the statute, the legislative history, the judicial authorities and other considerations support the decision of the court below.

1. Section 252(b), the only authority for summary deportation as an express exception to the full deportation "procedure prescribed in Section 242", provides in full:

> "Pursuant to regulations prescribed by the Attorney General, any immigration officer may, in his discretion, if he determines that an alien is not a bona fide crewman, or does not intend to depart on the

vessel or aircraft which brought him, revoke the conditional permit to land which was granted such crewman under the provisions of subsection (a)(1), take such crewman into custody, and require the master or commanding officer of the vessel or aircraft on which the crewman arrived to receive and detain him on board such vessel or aircraft, if practicable, and such crewman shall be deported from the United States and at the expense of the transportation line which brought him to the United States. Until such alien is so deported, any expenses of his detention shall be borne by such transportation company. Nothing in this section shall be construed to require the procedure prescribed in section 242 of this Act to cases falling within the provisions of this subsection."

The ordinary and natural meaning of this language is that "such crewman", subject to summary deportation, is one detained on board his vessel and "so deported" on his vessel.

This interpretation of Section 252(b) is supported by the related statutory provisions based on the presence in the United States of the vessel on which the crewman arrived. For example, Section 252(a) distinguished between (1) crewmen such as respondent admitted for the duration of the vessel's stay in port and (2) crewmen admitted for 29 days to depart on another vessel. Section 252(b) deals only with the first class of crewmen admitted for departure with their vessels, as was respondent, and subjects them to summary deportation. Crewmen of the second class, admitted to depart on another vessel, are not subject to summary deportation under Section 252(b): *U. S. ex rel. Kordic* v. *Esperdy*, 386 F. 2d 232, 237 (2nd Cir. 1967).

Section 254 contemplates that a vessel shall not be granted customs clearance to leave port until bond is provided to pay any fine for failing to detain on board or deport designated crewmen or until expenses are guaranteed to pay the costs of deportation on another vessel if the Attorney General decided on that course. Thus the statutory provisions indicate that the summary deportation procedure is related to deportation on the vessel on which the crewman in question arrived.

2. The available statutory history supports the view that summary deportation is limited to the vessel on which the crewman arrived. Section 252(b) was preceded by Section 20(a) of the Immigration Act of 1924, 43 Stat. 164, which provided a fine of $1,000.00 for failure to detain or deport a seaman employed on the vessel if required to do so. Section 20(c) provided for deportation at the expense of the arrival vessel on another vessel if deportation on the arrival vessel involved undue hardship to the alien. These provisions contemplated deportation on the arrival vessel as the ordinary and usual procedure.

Section 20(d) of the 1924 Act repealed Section 32 of Immigration Act of 1917, 39 Stat. 896, which had provided a penalty for negligent failure to detain on board or deport any alien employed on the vessel when requested to do so by immigration authorities. Section 33 of the 1917 Act permitted alien crewmen intending to ship foreign on another vessel to land pursuant to the regulations of the Attorney General. Section 34 provided that an alien seaman landing contrary to the provisions of the Act could be arrested within three years and deported pursuant to the general

deportation procedure provided by Section 20 of the Act.[1] All of these provisions of the 1917 and 1924 Acts appear to contemplate the usual deportation procedure applicable to all aliens unless the crewman is detained on board and deported on his vessel.

The present 1952 Act is based upon the Senate Judiciary Committee Report on "The Immigration and Naturalization Systems of the United States" (Report 1515, 81st Cong. 2d Sess.) which reviews the administrative problems under the 1917 and 1924 Acts and discusses at some length provisions applicable to seamen (pages 545 to 558). This report expresses conclusions and recommendations in respect of seamen later incorporated in Section 252 including the provisions for temporary admission for the period the vessel remains in port not to exceed 29 days or for a separate period not to exceed 29 days if the seaman intends to depart on another vessel. The report then goes on to recommend a provision which became Section 252(b) by stating as follows (page 558):

> "Authority should be granted to immigration officers in a case where the alien crewman intends to depart on the same vessel on which he arrived, upon a satisfactory finding that an alien is not a bona fide crewman, to revoke the permission to land temporarily, to

[1] Crewmen arriving after enactment of the 1924 Act were held not entitled to the special three year statute of limitations on deportation provided for crewmen by Section 34 of the 1917 Act but were held subject to deportation without such limitation under the general provisions of the 1924 Act. *U. S. ex rel. Stapf* v. *Corsi*, 287 U. S. 129; *Philippides* v. *Day*, 283 U. S. 49. In this respect also crewmen were treated like all other aliens for purposes of deportation.

take the alien into custody, and to require the master of the vessel on which he arrived to detain him and remove him from the country."

It is submitted that this statement, in accord with the statutory history generally, supports the interpretation of Section 252(b) adopted by the court below.

3. The course of judicial decision also supports the court below. In the case of first impression, *U. S. ex rel. Szlajmer* v. *Esperdy*, 188 F. Supp. 491 (S. D. N. Y.), the Government argued that the temporarily admitted Polish crewman who claimed political persecution should be treated either as a parolee entitled to no hearing on the issue of persecution under Section 243(h), applying *Leng May Ma* v. *Barber, supra*, or as a summary deportee under Section 252(b) and equally entitled to no hearing on the issue of persecution. The District Court ruled that the admitted crewman plainly was not a parolee and as an admitted alien was entitled by construction of the statute to a hearing on the issue of persecution.

The Government did not appeal this decision but sought to nullify it by a new regulation (Section 253.1(e), 26 F. R. 11797, effective December 8, 1961) attempting to transfer the alien without a hearing from the status of an admitted alien entitled to a hearing on the issue of presecution to the status of a parolee not entitled to such a hearing under *Leng May Ma, supra*. The regulation (Gov. Br. App. 46) provided in effect for automatic revocation of temporary admission upon a claim of persecution and then parole into the United States if the claim was allowed or return of the crewman to his vessel if the claim was rejected and

parole not authorized. The regulation made no provision whatever for the hearing which the Court in *Szlajmer* ruled was the statutory right of the alien.

The new form of this regulation[2] (Section 253.1(f), 32 F. R. 4341, effective March 22, 1967) is illuminating because it sets forth the past practice under the original form of the regulation applied in this case and makes clear the Government's adherence to the position that the admitted crewman is to be treated like a paroled crewman and denied any "hearing" in the administrative law or constitutional law sense of that term and given merely an "interview" or an "interrogation". There is no provision in either the original or expanded form of the regulation for a hearing or for the presence of counsel or admission of evidence by the crewman.

Indeed it appears to have been the practice to deny a hearing and then grant some kind of a hearing only in cases in which the crewman requests the court to direct a hearing. In the reported cases, including this case and the companion *Vucinic* case (App. 28), the courts approved the administrative proceeding only after correcting the denial

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[2] Section 253.1(f) (not printed in Gov. Br. App. 46 because stated to be immaterial) reads as follows: "Any alien crewman refused a conditional landing permit or whose conditional landing permit has been revoked who alleges that he cannot return to a Communist, Communist-dominated, or Communist-occupied country because of fear of persecution in that country on account of race, religion, or political opinion shall be removed from the vessel or aircraft for investigation. Following the interrogation the district director having jurisdiction over the area where the alien crewman is located may in his discretion authorize parole of the alien crewman into the United States under the provisions of Section 212(d)(5) of the Act. If parole is not authorized the crewman shall be returned to the vessel or aircraft on which he arrived in the United States." This regulation contemplates deportation on the arrival vessel.

of a hearing and ordering a hearing. *Glavic* v. *Beechie*, 225 F. Supp. 24, 25; *U. S. ex rel. Kordic* v. *Esperdy*, 274 F. Supp. at 875.[3] Thus we have an administrative practice on the difficult factual issue of political persecution in which a temporarily admitted crewman who claims persecution automatically is relegated to the position of an alien outside the United States interrogated as an applicant for parole into the United States and, without counsel or a hearing, returned to his vessel. It is only when he obtains counsel and judicial scrutiny of his interrogation that he is offered a semblance of a hearing with counsel present and opportunity to present evidence. This is the short shrift a crewman receives in a situation in which the published regulation does not provide for a hearing, presence of counsel or an opportunity to present evidence.

In *Glavic* v. *Beechie, supra,* affirmed *per curiam* 340 F. 2d 91 (5th Cir. 1964), one Judge dissenting, the court thought the hearing it ordered at the crewman's request was sufficient to satisfy the statute and constitutional standards although not before a special inquiry officer. And after *Kordic, supra,* received the hearing the district court directed, the court then concluded that the new regulation provided a basis for distinguishing its former *Szlajmer* decision and that the proceeding was sufficient and whether it was an interview or a hearing "makes no real difference . . ." 276 F. Supp. 1, 3. The Court of Appeals affirmed, 386 F. 2d 232, following *Glavic,* and stating that the hearing that the crewman finally received on court order was essentially fair. The court in part based its conclusion

[3] The district court noted (p. 874 n. 1) that the immigration officer had asserted that the interview was like a primary inspection of an alien seeking admission at which an attorney was not entitled to be present (Sec. 235(a) of the Act).

on the view that by accepting the permit to land temporarily, conditioned on agreement to deportation pursuant to Section 252(b), the crewman waived any right to a full scale deportation proceeding. This basis for a decision however seems questionable in two respects. It begs the question presented here which is whether Section 252(b) applies at all after the arriving vessel sails foreign. It is difficult to say what a crewman waived, if anything, until the scope of Section 252(b) is finally determined. Crewmen certainly do not by the general language of the permit knowingly waive a hearing before a special inquiry officer on the issue of persecution. Moreover, the court relies for this waiver argument on its decision in *U. S. ex rel. Stellas* v. *Esperdy*, 366 F. 2d 266, in which the judgment was vacated and the case returned to the Service for a hearing which had not been granted initially. 388 U. S. 462. It is submitted that the court below and *Szlajmer* correctly construe Section 252(b) and *Glavic* and *Kordic* do not.

4. A. The Government first argues (Br. 14-26) that narrow construction of Section 252(b) by the court below would frustrate the purpose of this new section to prevent abuse of shore leave by seamen. Concededly, crewmen whose permits are not revoked until after their vessels have departed and crewmen admitted to depart on other vessels are not subject to the summary deportation procedure (Gov. Br. 20). There is no basis in the statute or its legislative history to conclude that Congress was not content to restrict the summary procedure to crewmen who could be deported on their own vessels and leave crewmen who could not be deported on their own vessels in the same category as crewmen whose permits were revoked after

their vessels departed or crewmen admitted to depart on other vessels. The policy of Section 252(b) is not frustrated by limiting it to crewmen deportable on their own vessels because the policy is so limited and all other overstayed crewmen are dealt with under the general deportation procedure.

The Government argues (Br. 25-26) that a full deportation hearing and judicial review would render the summary deportation procedure useless. But it must be answered that the unavoidable delay in these cases is due in the first place to refusal of the Service to give crewmen anything but an interview or an interrogation until the courts order evidentiary hearings (App. 28). Administrative delay at present is due to efforts to resolve the legal question whether such a crewman is entitled to a hearing before a special inquiry officer. Furthermore, the right to ultimate judicial review on the grave issue of political persecution is more important than summary deportation of the relatively few seamen who claim political persecution.

The statutory purposes of summary deportation are sufficiently realized in the great majority of cases in which crewmen indicating a disposition to overstay are deported on their vessels. Appropriate control of crewmen does not require application of that summary procedure to the occasional crewman who raises an issue of political persecution which cannot be determined before his vessel sails.

B. The Government next argues (Br. 27-33) from the statutory text that "cases falling within the provisions" of Section 252(b) include all cases in which crewmen's temporary permits are revoked before their vessels depart even though summary deportation follows departure

of the vessel. But the language of Section 252(b) in respect of detention of a crewman on board, or elsewhere if detention on board is not practicable (probably because not sufficiently secure), and detention and deportation at company expense throw no light whatever on legislative intent in respect of summary deportation after the vessel has sailed foreign. Deportation, whether summary or plenary, is in any case at the transportation company's expense. Section 254(c).

The Government then argues (Br. 34-35) that a stricter policy on granting shore leave might follow approval of the decision of the court below. But Congressional intent cannot be determined on the basis of future shore leave policy to offset a liberal construction of the statute. If the Government construction is not adopted an amendment to adopt the Government's view may be proposed or conceivably the Government may choose to reform its regulations and administrative practice to provide for a prompt evidentiary hearing upon a seaman's claim of political persecution (without awaiting a court order directing such a hearing) and in cases where the vessel has sailed foreign before conclusion of the proceeding to provide such a hearing before a special inquiry officer.

C. Lastly the Government argues (Br. 35-38) that since a hearing before a special inquiry officer on a political persecution issue is required not by the language of the statute but only by regulation it is both permissible and appropriate to exclude from the benefit of the regulation the one class of crewmen who request political asylum before their vessels sail foreign. But that suggestion does not meet respondent's legal contention that after his ship

sails he is no longer subject to summary deportation but entitled to a plenary deportation hearing before a special inquiry officer on all issues, including the issue of political persecution, as are crewmen whose vessels sail before revocation of their temporary permits or crewmen admitted to depart on other vessels. The change in the regulation to provide that the issue of political persecution as well as other issues in a plenary deportation proceeding shall be determined by the special inquiry officer means that all aliens, including respondent, entitled to a plenary deportation hearing are entitled to have the issue of political persecution decided by a special inquiry officer.

5. On November 1, 1968 (Dep't of State Bull., Vol. LIX, No. 1535, p. 538) the United States acceded to the Protocol Relating To The Status Of Refugees and became obliged to carry out the provisions of the Protocol and the Convention Relating To The Status Of Refugees (Senate Executive Report No. 14, 90th Cong., 2nd Sess. (Sept. 30, 1968). Article 32 of the Convention provides that the Contracting States shall not expel refugees lawfully in their territory save on grounds of national security or public order and that expulsion shall be only pursuant to a decision reached in accordance with due process of law and the refugee shall be allowed to submit evidence to clear himself. Article 33 provides that no Contracting State shall expel or return a refugee to the frontiers of territories where his freedom would be threatened on account of his political opinion.[4] Article 1 of the Convention, as amended

[4] Article 32 provides "1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except

by Article I of the Protocol defines the term "refugee" as including any person who owing to well-founded fear of political persecution is outside the country of his nationality and unwilling to avail himself of its protection.[5]

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where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary."

Article 33 provides "1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country."

[5] Article 1 of the Convention provides in part: "A. For the purposes of the present Convention, the term "refugee" shall apply to any person who: * * * (2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

Article I of the Protocol provides in part: "* * * 2. For the purpose of the present Protocol, the term "refugee" shall except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words "As a result of events occurring before 1 January 1951 and * * *" and the words "* * * as a result of such events", in article 1A(2) were omitted."

The Protocol and Convention do not provide that they shall apply only to refugees entering the territory of the Contracting State after its accession to the Convention or Protocol and indeed their texts and the refugee situation throughout the world which called for the adoption of the Convention and Protocol make it clear that these treaties are intended to apply to refugees already on the territory of the Contracting State. Similarly no exception is made in either the Convention or the Protocol exempting from Articles 32 and 33 of the Convention cases in which expulsion proceedings have been commenced prior to the accession to the Protocol. It seems clear therefore that the United States has undertaken by solemn treaty obligation that the expulsion procedures apply to the respondent and shall conform to the requirements of Articles 32 and 33. It is submitted that the application of these treaty provisions to the present case requires the determination that respondent, temporarily admitted to the United States and claiming refugee status, is entitled to a hearing on that issue under the statutory procedure provided by Section 242(b) of the Act and cannot be relegated to the "interview" or "interrogation" procedure without violating due process requirements of Article 32 of the Convention.

CONCLUSION

The practical considerations of control of shore leave of alien crewmen, so completely committed to the discretion of the Service, are substantially satisfied even if summary deportation is restricted to the arrival vessel. In the relatively few cases in which the claim of political persecution cannot be fully determined before the arrival vessel sails no substantial disruption of foreign shipping is caused by giving the crewmen involved plenary deportation proceedings and deporting them on other vessels if they fail to establish political persecution. Section 252(b) should not be stretched to extend summary deportation to cases not plainly within the statute in order to deprive crewmen making the grave claim of political persecution of an adequate hearing before a special inquiry officer. The important individual rights involved should not be sacrificed to satisfy a baseless apprehension that a plenary instead of a summary deportation hearing after the arrival vessel has departed will somehow disrupt international shipping.

The judgment of the Court of Appeals should be affirmed.

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